

JAP:MKM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

C O M P L A I N T

- against -

MARCELLO CAPONE,

(T. 8, U.S.C.,
§§ 1326(a) and
1326(b)(2))

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

DANIEL TEITELBAUM, being duly sworn, deposes and states that he is an Enforcement Officer with Customs and Border Protection, duly appointed according to law and acting as such.

On or about May 24, 2011, within the Eastern District of New York and elsewhere, the defendant MARCELLO CAPONE, being an alien who had previously been arrested and convicted of aggravated felonies, to wit: Criminal Possession of Stolen Property in the Third Degree and Criminal Sale of Controlled Substance in the Second Degree, and was thereafter deported from the United States, and who had not made a re-application for admission to the United States to which the Secretary of the Department of Homeland Security, successor to the Attorney General, had expressly consented, attempted to enter the United States.

(Title 8, United States Code, Section 1326(b)(2)).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I am an Enforcement Officer with Customs and Border Protection ("CBP") and have been involved in the investigation of numerous cases involving the illegal re-entry of aliens. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including the defendant's criminal history record; and from reports of other law enforcement officers involved in the investigation.

2. On May 24, 2011, the defendant, MARCELLO CAPONE, arrived at John F. Kennedy International Airport, in Queens, New York, aboard Alitalia flight number AZ 604 from Milan, Italy. One of the documents the defendant presented to CBP included an Italian passport in the name of "MARCELLO CAPONE."

3. When MARCELLO CAPONE presented his travel documents to CBP, a check of CBP's computer database determined that MARCELLO CAPONE had been removed from the United States on or about January 17, 1998 after having been convicted of Criminal Possession of Stolen Property in the Third Degree on or about July 8, 1991 and Criminal Sale of Controlled Substance in the

^{1/} Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

Second Degree on or about November 7, 1988, both aggravated felony offenses. CBP subsequently submitted the defendant's fingerprints through the Integrated Automated Fingerprint Identification System ("IAFIS"), which confirmed the defendant's prior conviction and deportation.

4. I have further reviewed official CBP records, which document that on or about January 17, 1998, the defendant MARCELLO CAPONE was deported from the United States to his home country of Italy for violations of the Immigration and Nationality Act, after being convicted of the above described crimes designated by immigration authorities as an aggravated felonies.

5. A preliminary search of the CBP files has revealed that there exists no re-application by the defendant MARCELLO CAPONE for admission to the United States to which the Secretary of the Department of Homeland Security, successor to the Attorney General, expressly consented.

WHEREFORE, your deponent respectfully requests that the defendant MARCELLO CAPONE be dealt with according to law.



DANIEL TEITELBAUM
Enforcement Officer
Customs and Border Protection

Sworn to before me this
25th day of May, 2011

HONORABLE
UNITED STATES
EASTERN DISTRICT OF NEW YORK

rew Carter